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OP WĀTEA RULES OF ENGAGEMENT (ROE) [As at 25 May 10]

Application

1. The following Rules of Engagement (ROE) apply to all members of the NZSAS TF (TF 81) deployed as part of **Operation WĀTEA** within the territory or airspace of Afghanistan.

Definitions

2. The following definitions apply to these ROE:
 - i. **ANSF** means the Afghan National Security Forces.
 - ii. **PSR(S)3**
 - iii. **Collateral damage** means the unintended destruction of property, which occurs incidental to the authorised and legitimate use of force.
 - iv. **PSR(S)3**
 - v. **CRU** means the Critical Response Unit of the Afghan Ministry of the Interior.
 - vi. **Designated persons** means:
 - (a) All members of ISAF other than TF 81;
 - (b) All members of the CRU while they are acting in cooperation with ISAF;
 - (c) All members of the ANSF while they are acting in cooperation with ISAF;
 - (d) Any persons designated by either the Commander ISAF (COM ISAF), or Commander ISAF Special Operations Forces (COM ISAF SOF), and approved by the Commander Joint Forces NZ (COMJFNZ); and
 - (e) Any persons designated by COMJFNZ in respect of a national task.
 - vii. **Designated property** means property (including areas) designated by:
 - (a) COM ISAF, or COM ISAF SOF, and approved by COMJFNZ; or
 - (b) COMJFNZ in respect of a national task.
 - viii. **Detention** means the arrest or apprehension of a person and the deprivation of the person's liberty.

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- ix. **Hostile act** means the use of force by any person or group against one or more members of TF 81, **designated persons** or **designated property** where death or serious injury is likely to result.
- x. **Hostile intent** means that there is an imminent intent to commit a **hostile act**. The existence of **hostile intent** may be judged by either:
 - (a) The threatening individual or unit's capability and preparedness to inflict imminent or immediate damage; or
 - (b) Information, particularly intelligence, which indicates an intention to conduct an imminent or immediate attack.
- xi. **Incidental casualties** means the unintended death or injury of civilians, which occurs incidental to the authorised and legitimate use of force.
- xii. **ISAF** means the International Security Assistance Force in Afghanistan.
- xiii. **Deadly force** means force that is intended or likely to cause death or serious injury.
- xiv. **Minimum force** means the minimum degree of force that is necessary, reasonable and lawful under the circumstances to achieve the objective. It includes the full range of force, up to and including **deadly force**.
- xv. **Self defence** means the use of reasonable force to protect any member of TF 81 or any other **designated person** against a **hostile act** or **hostile intent**.

Rules of Engagement

3. The following specific numbered ROE are authorised:

- A Use of **minimum force**, up to and including **deadly force**, is permitted for individual or unit self defence or in defence of **designated persons** against a **hostile act** or demonstration of **hostile intent**.
- B Use of **minimum force**, up to and including **deadly force**, is permitted in defence of **designated property**.
- C Use of **minimum force**, up to and including **deadly force**, to achieve the mission is permitted.
- D PSR(S)3

TF81 personnel were permitted to use approved weapons systems for authorised purposes
- E Entry into territory or airspace outside of Afghanistan for the purpose of conducting operations PSR(S)3 is prohibited.
- F PSR(S)3

TF81 personnel were authorised to operate within a particular area of operation (AOO). Entry into territory or airspace outside AOO not permitted without requisite approval

- G Identification of targets is accepted if made by visual means or PSR(S)3
other specified objective means
- H Attack on individuals, forces or groups directly participating in hostilities in Afghanistan against the legitimate Afghan government, including PSR(S)3 is permitted.
- AMPL/1/ Planned attacks subject to approval at the authorisation level for PSR(S)3
AMPL/2/Positive confirmation by PSR(S)3 that a target is directly participating in hostilities is required.
- I Actions which could result in **incidental casualties** and **collateral damage** are permitted if the action is essential for mission accomplishment and the expected **incidental casualties** and **collateral damage** are proportionate to the concrete and direct military advantage anticipated.
- J PSR(S)3 TF81 personnel were authorised to conduct systematic observations of various areas, places, persons or things by the use of various means
- K PSR(S)3 TF 81 personnel were authorised to conduct operations in a particular manner provided they conformed with IHL/LOAC at the appropriate juncture
- L PSR(S)3 Rule permitting specified category of operations only where essential
- M Unrestricted carriage of small arms is permitted.
- N PSR(R)1, PSR(S)3 The use of certain devices was permitted
- O Unrestricted use of visual illumination is permitted.
- P PSR(S)3 Rule controlling a method of warning
- Q PSR(S)3 Rule controlling a method of warning
- R PSR(S)3 Rule controlling a method of warning
- S Seizure of any property is permitted:
- (a) when necessary for mission accomplishment; or

¹ PSR(S)3

- (b) when in the possession of a person who is **detained** if no member of the **CRU** or **ANSF** is present to effect the seizure.

AMPN/1/ Seizure will normally be necessary for mission accomplishment when the property to be seized has or could be used in a **hostile act** or demonstration of **hostile intent**.

- T Questioning of any person who is **detained** is permitted if no member of the **CRU** or **ANSF** is present to conduct the questioning.
- U Search of any person who is **detained** is permitted if no member of the **CRU** or **ANSF** is present to conduct the search.

Note: Any **search** conducted by the TF 81 under this ROE is to be conducted in accordance with the NZFOR ISAF Individual Guidance for the Detention of Non-ISAF Personnel, which is issued separately (see Appendix one).

- V **Detention** of a person is permitted if:
 - (a) No member of the **CRU** or **ANSF** is present to **detain** the person; and
 - (b) The person has demonstrated **hostile intent**, is committing a **hostile act**, or is interfering with mission accomplishment.

The person must either be released when he or she poses no further threat to the mission or, with the prior approval of COMJFNZ and CDF, handed over to an appropriate Afghan authority.

Note: Any person who is **detained** by the TF 81 under this ROE is to be handled in accordance with the NZFOR ISAF Individual Guidance for the Detention of Non-ISAF Personnel, which is issued separately (see App One).

- W Observed indirect fire is permitted.
- X PSR(S)3 Rule governing use of sensitive equipment
- Y Unrestricted use of non-explosive land barriers and obstacles is permitted.
- Z PSR(S)3 Rule governing use of specified non-lethal technique
- AA PSR(S)3 Rule governing use of specified non-lethal technique
- AB Search of any property is permitted:
 - (a) when necessary for mission accomplishment; or

- (b) when in the possession of a person who is **detained** if no member of the **CRU** or **ANSF** is present to conduct the search.

AC Action to secure the recovery **PSR(S)3** taken hostage is permitted with the prior approval of **PSR(S)3**

Additional Orders

4. The Commanding Officer 1 NZSAS Group and the Senior National Officer (SNO) of Operation WĀTEA are to ensure that personnel under their command are familiar with the law of armed conflict (LOAC), particularly as it applies in a non-international armed conflict, and with these ROE.
5. The SNO may promulgate additional ROE and/or amplified ROE guidance applicable to units under his command. Prior to this the SNO is to submit them through COMJFNZ to CDF for review and approval.
6. NZDF commanders are to ensure that all modified or supplemental ROE:
 - i. remain compatible with the intent of these ROE; and
 - ii. result in more definitive guidance to subordinate commanders.

INDIVIDUAL GUIDANCE FOR THE DETENTION OF NON-ISAF PERSONNEL

Authorisation

1. NZ ISAF personnel are only authorised to search and detain a person in accordance with this card where Afghan National Security Forces (ANSF) are not present or reasonably available to do so. If an arrest and/or detention is effected by ANSF in the presence of ISAF personnel, then the individual is not considered to be an ISAF detained person and the provisions of this card do not apply.

2. **Authority to Detain.** You are authorised to detain non-ISAF personnel if necessary for:

- i. The defence of any personnel or property you are authorised to protect;
- ii. The accomplishment of the mission.

3. **Detention Authority.** As soon as practicable after a detention has taken place, the decision to continue to detain must be considered by an appropriate ISAF Detention Authority. A Detention Authority includes a NZ Senior National Officer (SNO), a Provincial Reconstruction Team (PRT) Commander, Base Commander or a Patrol Commander.

Immediate Actions at the Scene of Detention

4. **Documentation.** Full details of the individual and the circumstances surrounding detention are to be recorded including: DTG of detention, place of detention, reasons for detention, name and unit of the detaining soldier/officer, name and unit of officer authorising detention, details of the detained person including name, gender, home and home of record and whether or not the International Committee of the Red Cross (ICRC) have been informed. Such information is to be transmitted to the relevant NZ SNO without delay. The NZ SNO is to allocate each detainee a national detainee number.

5. **Use of Force.** Minimum force may be used to effect a detention or restrain a violent detainee. The use of plasticuffs by NZFOR ISAF personnel, who have been trained in their use, is authorised. NZFOR ISAF personnel are authorised to use minimum force to stop a detainee escaping. In any circumstance requiring the use of force against a detainee, deadly force is not to be used unless necessary to prevent an act which constitutes an immediate threat to life of personnel you are authorised to protect. Persons detained by ISAF are to be treated with respect and dignity and in compliance with applicable international law and human rights law standards. No one shall be subjected to torture or to inhumane or degrading treatment or punishment, including the use of stress positions.

6. **Search.** The detainee is to be searched for any articles of evidential value, or items which may be used to inflict self-injury or injure those effecting the detention. Such items are to be removed. In all cases receipts are to be provided. Weapons or contraband found in a detained person's possession shall be retained for the period of detention. Direction on the disposal of weapons and contraband, such as drugs, will be issued by the chain of command. Precise details of all searches are to be recorded and retained. In all circumstances the dignity of persons being searched shall be respected.

- i. *Gender Considerations.* Female detainees are only to be searched by female members of NZFOR ISAF (unless there are pressing operational reasons which makes this impracticable, in which case all such searches are to be witnessed by one other member of NZFOR ISAF).
- ii. *Juveniles/Children.* Extreme care is to be taken when searching juveniles and children and all searches are to be witnessed by one other member of NZFOR ISAF.

7. **Rights of a Detainee.** The detainee must be informed, in a language that he or she understands, of the reasons for detention and given an information sheet detailing his or her rights as a detainee. Where this is not possible, then the detainee is to be given this information at the earliest opportunity.

8. **Release.** If there is no requirement for continued detention, the detainee is to be released. When a detainee is being released, detainees should be returned to their home, or to their place of original detention. Detainees are not to be left in remote locations to fend for themselves.

Transfer and Movement

9. Personnel detained by NZFOR ISAF personnel are not to be transferred or handed over to ANSF or other ISAF coalition forces without the prior approval of COMJFNZ or CDF.

10. If there is a requirement to transport detained persons between locations, full details of the individual and the circumstances surrounding the detention are to be maintained and are to be transported with the detained individual. As a general rule, the detaining unit/sub unit is required to provide the guards and transport to move a detained person between locations.

11. Wherever possible detained persons should be moved in a vehicle/aircraft. Movement on foot should be a last resort and only conducted over short distances.

12. Where the transfer/movement of a detainee is conducted over a large distance or prolonged period of time, then the guarding unit is to ensure that regular breaks are taken and that food and water is available. A detainee may be restrained by the use of plasticuffs or handcuffs whilst being transported provided that they are fitted only by individuals trained in their use. A detainee is not to be secured to any part of a vehicle or any other static object.

JFNZ.J09-2

From: JFNZ.J09
Sent: Thursday, 27 May 2010 8:30 a.m.
To: JFNZ.J09-3
Subject: FW: Clean Copy for Minister

Attachments: ROE for Minister 25 May 10.doc

From: HQNZDF.ADSF
Sent: Thursday, May 27, 2010 8:29:34 AM
To: JFNZ.J09; JFNZ.J3
Cc: JFNZ.COMJFNZ
Subject: FW: Clean Copy for Minister
Auto forwarded by a Rule

Gentlemen,

FYI

From: HQNZDF.DSO
Sent: Thursday, 27 May 2010 8:17 a.m.
To: NZSAS.CO; 'WAATEA.SNO'; HQNZDF.DDSO
Cc: HQNZDF.ADSF
Subject: FW: Clean Copy for Minister

All,

This is the latest ROE which just reflects the two changes to date. It was prep for the MINDEF as he likes to have a copy in his safe, helps him sleep better.

PSRRC

From: HQNZDF.DDOPSLAW
Sent: Wednesday, 26 May 2010 5:06 p.m.
To: HQNZDF.DSO; HQNZDF.DCOS
Subject: Clean Copy for Minister

Gents,

Clean copy attached. I've tidied up the formatting a bit as well.



ROE for Minister 25
May 10.doc...